

Indicator 57. Extent to Which the Institutional Framework Supports the Conservation and Sustainable Management of Forests, Including the Capacity To Enforce Laws, Regulations, and Guidelines

What Is the Indicator and Why Is It Important?

The achievement of conditions conducive to forest conservation and sustainability implies that various biophysical standards and assorted political processes have been applied. In many cases, such will occur in response to market systems or to various participatory processes involving different segments of the public. Circumstances exist, however, in which the application of sustainability standards occurs only in response to the fear of penalty or punishment. Some unwilling persons or entities respond only to the imposition of a sanction in the form of an order, fine, or incarceration. Without some form of adequately and appropriately applied enforcement effort to which landowners or timber harvesters must respond, the effectiveness of laws, regulations, and guidelines focused on forest resources may be substantially diminished in some circumstances.

What Does the Indicator Show?

Institutional capacity needed to accomplish standards of forest sustainability exists for nearly all public agencies and is very often designed and organized to be implemented in a targeted fashion. For example, enforcement actions are focused on specific sectors (private forests), geographic areas (riparian areas), forestry practices (clear cutting), pollutants (pesticides), and products or benefits (timber, wildlife). The intensity with which enforcement capacity is applied across these target areas is not uniform. Furthermore, enforcement varies considerably within and between different levels of government. The severity of penalties associated with enforcement authority is wide ranging. Largely unknown, however, is how effective these penalties are as a deterrent to landowners or timber harvesters who fail to cooperate in the application of sustainability standards.

Federal institutional capacity supporting enforcement of standards of forest sustainability has been strengthened in recent decades. At a minimum, 10 new Federal laws provide additional authorities to address matters involving, for example, endangered species, pesticide application, archeological resources, and conditions of employment. In addition, the issuance of agency-promulgated rules (nearly 80 in 2001) has promoted additional institutional capacity to enforce laws, rules, and guidelines. In most cases, each agency's enforcement authority is grounded in its responsibility for a single forest value, a situation that poses significant challenges to coordination within and between governments and to the understanding of landowners and timber harvesters of the often many different enforcement provisions.

State governments also have extensive enforcement capacity. Such capacity often has its origin in enforcement activities focused on nonpoint sources of water pollutants. Some States use sophisticated regulatory programs to enforce standards of forest sustainability (more than 400 full-time enforcement staff in 1991). This authority is exercised in a variety of ways, ranging from pre-harvest reviews and post-harvest inspections to fines and imprisonment, and from court-ordered injunctions to recovering the cost of repairing damaged resources through liens on private property. Some States have adopted "bad actor" laws or "contingent regulation," wherein enforcement is focused on the exceptionally uncooperative landowner or timber harvester.

Local governments often engage in enforcement actions, although some States prohibit local regulation. The forest sustainability consequences of local regulatory actions are uncertain.